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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,716	10/22/2003	Mario Latronico	58009-017200	6855

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GREENBERG TRAURIG LLP
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SANTA MONICA, CA 90404

EXAMINER

TAWFIK, SAMEH

ART UNIT	PAPER NUMBER
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3721

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

ED

Office Action Summary	Application No. 10/691,716	Applicant(s) LATRONICO, MARIO	
	Examiner Sameh H. Tawfik	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final:
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-13 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-10 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 6-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Runge (U.S. Patent No. 5,247,781) in view of Grevich et al. (U.S. Patent No. 4,305,240) and further in view of Ausnit (U.S. Patent No. 4,876,842).

Runge discloses a horizontal packaging machine for making packages equipped with zip closure (16 and 18), the machine comprising at least one unit for unwinding a film (20) of synthetic material for packaging a series of products (24); at least one unit (36) for unreeling a pair of tapes to form a zip closure (16 and 18); a shaping tunnel located downstream of the film unreeling unit (Fig. 4; via sealing apparatus 124); a sealing unit located downstream of the shaping tunnel (Fig. 4; via sealing bars 128).

Runge does not disclose a power-driven film feed roller designed to apply a uniform pulling force on the film which is unwound and fed into the sealing unit wherein the power driven feed roller has on its surfaces a series of jaws for transversely sealing and separating the packages; wherein the location of the power driven film feed roller and the uniform pulling force prevents the film from being uneven while sealed. However, Grevich discloses a similar packaging machine comprising a power-driven film feed roller (Figs. 1-3; via rotor 17) designed to apply a uniform pulling force on the film which is unwound and fed into the sealing unit wherein the power driven feed roller has

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on its surfaces a series of jaws (via sealing and cutoff heads 18) for transversely sealing and separating the packages (Figs. 1-5; via jaws 18); wherein the location of the power driven film feed roller (17) and the uniform pulling force prevents the film from being uneven while sealed, see for example (Figs. 1-3; the film been feed, pulled, and evenly sealed).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Runge's sealing and cutting bars 128 by having a power-driven film feed roller designed to apply a uniform pulling force on the film which is unwound and fed into the sealing unit wherein the power driven feed roller has on its surfaces a series of jaws for transversely sealing and separating the packages, wherein the location of the power driven film feed roller and the uniform pulling force prevents the film from being uneven while sealed, as suggested by Grevich, in order to readily and easily varying the length of the produced packages and readily adjusting the sealing and cutoff heads on the rotor to accommodate packages of various lengths (column 2, lines 40-45).

Runge in view of Grevich fail to disclose a pair of opposite platforms, one on each side of the forward moving film and zip tapes, each platform being equipped with two jaws designed to make a first continuous seal along the outside of the joined edges of the film and a second seal along the inside in order to attach the zip tape to the film edges. However, Ausnit, discloses similar packaging machine comprising a pair of opposite platforms (Fig. 1; via platforms 40 and 42), one on each side of the forward moving film and zip tapes (via web 11 and zip 17 tapes), each platform being equipped with two jaws (via two jaws 40 and 42) designed to make a first continuous seal along the

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outside of the joined edges of the film (via jaws 40) and a second seal along the inside in order to attach the zip tape to the film edges (via jaws 42).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Runge's sealing means 124 by having a pair of opposite platforms, one on each side of the forward moving film and zip tapes, each platform being equipped with two jaws designed to make a first continuous seal along the outside of the joined edges of the film and a second seal along the inside in order to attach the zip tape to the film edges, as suggested by Ausnit, in order to provide a new and improved apparatus for packaging product masses in a form, fill and seal machine (column 1, lines 31-34).

Regarding claim 3: Runge discloses a zip tape and package separating unit (Fig. 4; via knife 130).

Regarding claim 4: Grevich discloses that the jaws have cutting edges (Fig. 5; via 18).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Runge's sealing and cutting bars 128 by having a power-driven film feed roller with jaws having cutting edges, as suggested by Grevich, in order to readily and easily varying the length of the produced packages and radially adjusting the sealing and cutoff heads on the rotor to accommodate packages of various lengths (column 2, lines 40-45).

Regarding claim 5: Runge nor Grevich disclose a pair of opposite platforms one on each side of the film to make a first continuous seal along the outside of the joined edges of the film and a second seal along the inside in order to attach the zip tape to the

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film edges. However, the examiner takes an official notice that the mentioned two seals on a reclosable bags is old, well known and available in the art, see for example US. Patent Num. 6,523,325 and 4,618,383. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Runge's horizontal packaging machine by having means to make a first continuous seal along the outside of the joined edges of the film in order to secure the inside seal from any damage and provide the customer with a prove that the bag is never opened and a second seal along the inside in order to attach the zip tape to the film edges.

Regarding claim 6: Runge discloses free turning guide rollers to fuide the film into the sealing unit (Fig. 4; via rollers 88 and 90).

Regarding claim 7: Runge discloses a pair of jaws feature a longitudinal groove which accommodates the zip tape while the seal is being made (Fig. 4; via sealing bars 124 and 128)

Regarding claim 8: Runge discloses close to the unit (36) for unwinding the zip tape (16 and 18), a pair of unwinding rollers (Fig. 1; via guide rollers 40, 44, 46, 48, and 49). Runge does not disclose that rollers for unwinding are driven by a servomotor. However, the examiner takes an official notice that driving rollers by servomotor is old, well known and available in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Runge's horizontal packaging machine by having servomotor to control the unwinding of the zip tape, in order to control the tension of the closure tape.

Regarding claim 9: Runge does not disclose downstream of the power-driven roller a device for collecting and feeding out the packages. However, it is inherent that

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Runge's packaging apparatus have a collecting or stacking station by the end of the manufacture line.

Regarding claim 10: Runge does not disclose that two process lines placed side by side. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Runge's packaging machine by having two process lines placed side by side, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. in order to have more manufactured bags in shorter time.

Regarding claim 13: Runge discloses a free turning guide rollers for guiding the film into the sealing unit (Fig. 2; via guide and pressing rollers 104 and 106).

Response to Arguments

Applicant's arguments filed 01/04/2007 have been fully considered but they are not persuasive.

Applicant argues that the reference of Grevich does not teach the rotor applies a uniform pulling force on the tubular wrapper filled with articles as the rotational speed of the shaft 17 is coordinated to the speed of travel of the articles in the wrapper, which is different than the claimed language.

The examiner maintains that Grevich's reference clearly discloses a pulling force to the wrapped product as shown in Figs. 1-3; as it is inherent that wheel/shaft 17 is holding to the web and rotating them around the wheel, that been considered as pulling force. Note that Grevich's wheel 17 is very similar to the applicant's wheel 21, and been functioned the same way.

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Applicant further argues that Grevich's reference does not disclose a zip closure. The examiner agrees with the applicant that Grevich does not disclose a zip closure, but the applied Ausnit discloses the claimed zip tapes, see rejection above.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

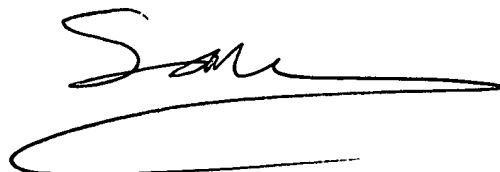
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 9:00 AM to 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sameh H. Tawfik
Primary Examiner
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A handwritten signature in dark ink, appearing to be 'Sameh', with a long horizontal flourish extending to the right.

ST.